

03500.015233.

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
	:	Examiner: J. Salce
SHUNTARO ARATANI, et al.)	
	:	Group Art Unit: 2623
Application No.: 09/818,545)	
	:	
Filed: March 28, 2001)	
	:	
For: INFORMATION PROCESSING)	
APPARATUS AND METHOD,	:	
DATA-BROADCASTING)	
RECEIVING APPARATUS,	:	
AND PRINTER)	July 5, 2007

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR REFUND

Sir:

Applicants request a refund for extension of time fees that were accumulated unnecessarily due to a three-month delay by the Patent Office in processing Applicant's Amendment filed on April 3, 2007. As of the date of filing this Request (the last day on which the statutory period for response ends), the Examiner has not acted on Applicant's Amendment.

In support of this Request, Applicants note the following facts. The Office issued a Final Office Action on January 5, 2007. On April 3, 2007, Applicants filed an Amendment After Final Rejection via the Office's electronic filing system (EFS). The Amendment was filed under the Office's Expedited Procedures For Processing Amendments And Other Replies After Final Rejection (see MPEP 714.03) by inclusion of an Expedited Processing notice in the upper righthand corner of the Amendment and the inclusion of a Mail Stop AF notice. The Amendment was entered in the Office's EFS system, but the Amendment was apparently never forwarded by Office personnel to the Examiner for action thereon. Applicants' undersigned representative contacted the Examiner on July 5, 2007 (the final day of the 6-month statutory period for response to the Office Action) to determine the status of the Examiner's action on the Amendment. The Examiner confirmed that the Amendment had been entered in the EFS system, but had not been forwarded to the Examiner for action. The Examiner stated that he would contact the appropriate Office personnel to correct the Office error, but that he could not act on the Amendment before the statutory period expires. In view of the foregoing, Applicants are willing to submit that, at the very least, a one month extension fee would have been due had the Amendment been forwarded to the Examiner and had the Examiner taken prompt action on the Amendment and therefore, Applicants are willing to concede the first month's extension fee of \$120.00. However, Applicants believe that the inexcusable delays by the Office personnel in processing the Amendment has unnecessarily caused Applicants to have to pay two additional months extension fees in order to maintain

pendency of the application. As such, Applicants request a refund of \$ 900.00 for the excess extension fees caused by Office delays in processing the Amendment.

In this regard, MPEP 714.03 states: “In the event that a proposed amendment does not place the case in better form for appeal, nor in condition for allowance, *applicant should be promptly informed of this fact, whenever possible, within the statutory period.*” (emphasis added) MPEP 714.03 also states: “Any amendment timely filed after a final rejection should be *immediately* considered to determine whether it places the application in condition for allowance or in better form for appeal. An examiner is expected to turn in a response to an amendment after final rejection within 10 calendar days from the time the amendment is received by the examiner. *A reply to an amendment after final rejection should be mailed within 30 days of the date the amendment is received by the Office.*” (emphasis added) Clearly, no response to Applicants’ Amendment was provided *within the statutory period*, nor was a reply mailed *within 30 days of the date the amendment was received by the Office*. Thus, the Office’s delay in processing the amendment has resulted in unnecessary extension fees being accrued, which Applicants have paid but for which Applicants request a refund.

The refund is requested to be credited to Deposit Account 50-3939.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Edward Kmett/
Edward A. Kmett
Attorney for Applicants
Registration No. 42,746

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-2200
Facsimile: (212) 218-2200

FGHS_WS 1437252v1